

**RESPONSE AND ARGUMENT**

**Restriction.** The Office Action dated June 19, 2006 asserts the existence of three inventions:

- I. Claims 1-20, drawn to a compound of formula (I) classified in class 548 and numerous subclasses.
- II. Claims 21-24, drawn to a compound of formula (II) classified in class 548 and numerous subclasses.
- III. Claims 25-29, drawn to a method of treating a disease classified in class 514 and several subclasses.

**Election of Invention.** Applicants elect the invention of claims 21 to 24, drawn to a compound of formula (II). Claim 24 was originally dependent on claim 1; in order to expedite prosecution, the relevant limitations of claim 1 have been incorporated into claim 21 by amendment. Additionally, claims 2, 3, 9, 10, 12, 19, and 20 are amended to depend from claim 21. Accordingly, Applicants asserted that as amended Invention II now consists of claims 21-24 together with claims 2, 3, 9, 10, 12, 19, and 20. It is respectfully requested that examination proceed on the basis of this election and the claims as amended, and that the restriction requirement be modified such that Invention II includes claims 2, 3, 9, 10, 12, 19, and 20.

**Election of Species.** Applicants elect the single compound of Example 12, page 33 of the specification. With reference to claim 24, the following are the relevant substituent groups:

J is phenyl;

W is NH<sub>2</sub>;

Q is phenyl;

R<sub>4</sub> is -R<sub>5</sub>;

R<sub>5</sub> is the amino acid residue His;

y in -O-(CH<sub>2</sub>)<sub>y</sub>-J is 1, and y in -NH-(CH<sub>2</sub>)<sub>y</sub>-W is 3.

It is noted that alternatively R<sub>4</sub> is -R<sub>5</sub>-R<sub>6</sub> where R<sub>5</sub> is the amino acid residue His and R<sub>6</sub> is H (hydrogen); both readings of R<sub>4</sub> in this instance are equivalent.

Claims readable on the foregoing specific compound include claims 21, 22 (where the optional groups  $R_{7a}$  and  $R_{7b}$  are not present), 23 (where  $R_5$  is the amino acid residue His and  $R_6$  is H), 2, 9, 10 and 19.

In the last paragraph of page 6 of the Office Action, it is stated that Applicants can a group of compounds which are within "the same inventive concept and reduction to practice." It is asserted that the compounds of Examples 9 - 12, 14 - 41, and 15 - 51 are within the same inventive concept and reduction to practice, which is defined by Claim 23, amended to provide Markush groups directed to the variables W ( $NH_2$  or  $NH(C=NH)NH_2$ ), y (1 to 6),  $R_5$  (from 1 to 3 specified amino acid residues),  $R_6$  (H or specified amine capping group), and  $R_{7a}$  (optionally present, and if present, halogen).

**Conclusion.** Applicants respectfully request that Invention II modified to include claims 2, 3, 9, 10, 12, 19, and 20 together with originally designated claims 21 - 24, proceed to an examination upon the merits. With respect to the species election, Applicants assert that the compounds of Examples 9 - 12, 14 - 41, and 15 - 51 are within the same inventive concept and reduction to practice, as exemplified by amended claim 23.

If any issues remain, or if the Examiner believes that prosecution of this application might be expedited by discussion of the issues, the Examiner is cordially invited to telephone the undersigned attorney for Applicant at the telephone number listed below.

Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 50-3582.

Respectfully submitted,

/Stephen A. Slusher/

By: \_\_\_\_\_

Stephen A. Slusher, Reg. No. 43,924  
Direct line: (609) 495-9197

PALATIN TECHNOLOGIES, INC.  
4-C Cedar Brook Drive  
Cranbury, New Jersey 08512  
Facsimile: (609) 495-2202  
**Customer No. 55506**

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